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COUNSEL FOR THE CHAPTER 11 TRUSTEE

**IN THE UNITED STATES BANKRUPTCY COURT
 FOR THE NORTHERN DISTRICT OF TEXAS
 DALLAS DIVISION**

IN RE:

**ACIS CAPITAL MANAGEMENT, L.P.,
 ACIS CAPITAL MANAGEMENT GP,
 LLC,**

Debtors.

§ Case No. 18-30264-SGJ-11
 § Case No. 18-30265-SGJ-11
 § (Jointly Administered Under Case
 § No. 18-30264-SGJ-11)
 § Chapter 11
 §

**HIGHLAND CAPITAL MANAGEMENT,
 L.P. and HIGHLAND CLO FUNDING
 LTD.,**

Plaintiffs and Counter Defendants,

vs.

ROBIN PHELAN, Chapter 11 Trustee,

**Defendant, Counter Plaintiff, and
 Third-Party Plaintiff,**

vs.

**HIGHLAND HCF ADVISOR, LTD.,
 HIGHLAND CLO MANAGEMENT, LTD.,
 and HIGHLAND CLO HOLDINGS, LTD.,**

Third-Party Defendants.

Adversary No. 18-03078-SGJ

TRUSTEE'S AMENDED MOTION FOR PARTIAL SUMMARY JUDGMENT¹

Robin Phelan (the "Trustee" or "Defendant"), the chapter 11 trustee of Acis Capital Management, L.P. ("Acis LP") and Acis Capital Management GP, LLC ("Acis GP" together with Acis LP, the "Debtors" or "Acis") in the above-styled and jointly administered bankruptcy cases (the "Bankruptcy Cases"), and Defendant in the above-styled adversary proceeding (the "Adversary Proceeding"), files this *Amended Motion for Partial Summary Judgment* (the "Amended Motion for Partial Summary Judgment") pursuant to Federal Rule of Civil Procedure 56, made applicable herein through Federal Rule of Bankruptcy Procedure 7056.

For the reasons set forth in the *Brief in Support of the Trustee's Amended Motion for Partial Summary Judgment* ("Brief"), fully incorporated herein, the Trustee respectfully requests that the Court: (i) confirm that, under the doctrine of collateral estoppel, the findings and conclusions of the Arbitration Award are binding upon Highland Capital; (ii) grant summary judgment in the Trustee's favor with respect to Counts 1, 2, 3, and 4 of the Amended Answer; (iii) disallow the Highland Claims under section 502(b)(1) and (d) of the Bankruptcy Code; and (iv) grant any other such relief that the Trustee may show himself to be justly entitled in law or in equity.

DATED: November 30, 2018.

¹ Any capitalized term not otherwise defined herein shall have the meaning ascribed to it in the *Brief in Support of the Trustee's Amended Motion for Partial Summary Judgment*, filed contemporaneously herewith.

Respectfully submitted,

By:/s/ *Phillip Lamberson* _____

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-and-

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CERTIFICATE OF SERVICE

The undersigned certifies that on November 30, 2018, a true and correct copy of the foregoing Amended Motion for Partial Summary Judgment and accompanying Brief in support and Appendix filed concurrently herewith will be electronically mailed to the parties that are registered or otherwise entitled to receive electronic notices in this case pursuant to the Electronic Filing Procedures in this District and to the parties on the attached Service List via first class U.S. mail.

/s/ Jason A. Enright
One of Counsel